

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

BENITA BLESSING,

Plaintiff,

Case No. 2:09-CV-762

-vs-

JUDGE SARGUS

OHIO UNIVERSITY,

MAGISTRATE JUDGE ABEL

Defendant.

ANSWER OF DEFENDANT OHIO UNIVERSITY

Defendant Ohio University avers in response to the Complaint in the above-captioned manner as follows:

1. Regarding Paragraph 1 of Plaintiff's Complaint, Defendant admits that this is a civil action brought by Dr. Benita Blessing against her employer, Ohio University. Defendant denies the remaining allegations in Paragraph 1, and specifically denies that any alleged conduct by Defendant constituted discrimination or retaliation.

2. Regarding Paragraph 2 of Plaintiff's Complaint, Defendant denies the allegations underlying Plaintiff's request for damages and costs, and therefore denies the allegations in Paragraph 2.

3. Regarding Paragraph 3 of Plaintiff's Complaint, Defendant admits that this Court has jurisdiction over claims brought pursuant to 28 U.S.C. 1331, but expressly denies any liability or wrongdoing under the laws of the United States.

4. Regarding Paragraph 4 of Plaintiff's Complaint, Defendant admits that venue is proper pursuant to 28 U.S.C. 1391.

5. Regarding Paragraph 5 of Plaintiff's Complaint, Defendant admits that Plaintiff filed charge No. 532-2008-01580 with the Equal Employment Opportunity Commission against Ohio University on or about July 16, 2008.

6. Regarding Paragraph 6 of Plaintiff's Complaint, Defendant admits that Plaintiff was issued a notice of right to institute a civil action from the U.S. Department of Justice on or about June 3, 2009.

7. Regarding Paragraph 7 of Plaintiff's Complaint, Defendant denies the allegations regarding Plaintiff's citizenship and residency for lack of knowledge, and denies the remaining allegations.

8. Regarding Paragraph 8 of Plaintiff's Complaint, Defendant admits that Ohio University is a state operated university and was at all times Plaintiff's employer.

9. Regarding Paragraph 9 of Plaintiff's Complaint, Defendant denies the allegations therein.

10. Regarding Paragraph 10 of Plaintiff's Complaint, Defendant admits that Dr. Blessing received the "University Professor" award, but denies the remaining allegations for lack of knowledge.

11. Regarding Paragraph 11 of Plaintiff's Complaint, Defendant denies, for lack of knowledge, the allegations therein.

12. Regarding Paragraph 12 of Plaintiff's Complaint, Defendant denies the allegations therein.

13. Regarding Paragraph 13 of Plaintiff's Complaint, Defendant denies, for lack of knowledge, the allegations therein.

14. Regarding Paragraph 14 of Plaintiff's Complaint, Defendant denies, for lack of knowledge, the allegations therein.

15. Regarding Paragraph 15 of Plaintiff's Complaint, Defendant admits that on or about March 7, 2008, Dr. Blessing submitted a complaint to Katherine Ziff alleging gender discrimination, but otherwise denies Plaintiff's characterization of the complaint, which speaks for itself, and further denies, for lack of knowledge, the remaining allegations therein.

16. Regarding Paragraph 16 of Plaintiff's Complaint, Defendant denies the allegations therein.

17. Regarding Paragraph 17 of Plaintiff's Complaint, Defendant admits that Plaintiff received a June 9, 2008 memo from Dr. Goda informing her that the Promotion and Tenure Committee unanimously voted to recommend that Plaintiff not be re-appointed following the 2009-2010 school year, but otherwise denies Plaintiff's characterization of the document, which speaks for itself.

18. Regarding Paragraph 18 of Plaintiff's Complaint, Defendant denies allegations therein.

19. Regarding Paragraph 19 of Plaintiff's Complaint, Defendant denies allegations therein.

20. Regarding Paragraph 20 of Plaintiff's Complaint, Defendant incorporates and reasserts its responses to Paragraphs 1-19 of Plaintiff's Complaint.

21. Regarding Paragraph 21 of Plaintiff's Complaint, Defendant denies allegations therein.

22. Regarding Paragraph 22 of Plaintiff's Complaint, Defendant incorporates and reasserts its responses to Paragraphs 1-21 of Plaintiff's Complaint.

23. Regarding Paragraph 23 of Plaintiff's Complaint, Defendant denies allegations therein.

24. Defendant denies each and every allegation contained in Plaintiff's Complaint that is not expressly and specifically admitted in this Answer.

ADDITIONAL DEFENSES

25. Plaintiff's Complaint fails to state a claim upon which relief may be granted.

26. Some or all of Plaintiff's claims are barred for failure to exhaust all administrative remedies.

27. Some or all of the claims in Plaintiff's Complaint are barred by the applicable statute of limitations.

28. Any action taken by the defendant was for a legitimate good-faith business reason and not because of Plaintiff's gender or alleged protected activity, and Defendant would have taken the same action regardless of the alleged discrimination or retaliation.

29. The Defendant exercised reasonable care to prevent any alleged unlawful behavior, and the Plaintiff failed to mitigate her damages and/or failed to take advantage of preventive or corrective opportunities.

30. Plaintiff's damages, if any, are barred by the failure to mitigate.

31. Some or all of the claims in Plaintiff's Complaint are barred by the doctrine of sovereign immunity and/or the Eleventh Amendment.

32. Defendant expressly reserves the right to supplement this Answer and its defenses raised herein as discovery proceeds.

WHEREFORE, having answered the Plaintiff's allegations, Defendant denies that Plaintiff is entitled to the relief sought. Defendant further respectfully requests that Plaintiff's Complaint be dismissed with prejudice at Plaintiff's costs, and the Court award Defendant such other relief to which it is entitled.

Respectfully submitted,

RICHARD CORDRAY
Ohio Attorney General

/s/James A. Hogan

JAMES A. HOGAN (0071064)
Assistant Attorney General
Trial Counsel
Employment Law Section
30 East Broad Street, 23rd Floor
Columbus, Ohio 43215
(614) 644-7257 - Telephone
(614) 752-4677 - Facsimile
elsreview@ohioattorneygeneral.gov

Counsel for Defendant

CERTIFICATE OF SERVICE

This will certify that the foregoing was filed electronically on November 2, 2009. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

/s/ James A. Hogan

JAMES A. HOGAN
Assistant Attorney General